

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

JAMES TODD BUSS,) FILED: NOVEMBER 24, 2008
) 08 CV 6720
Plaintiff,) JUDGE HIBBLER
) MAGISTRATE JUDGE MASON
vs.) AO
) Cause No:
)
BNSF RAILWAY COMPANY) **JURY TRIAL DEMANDED**
Serve:)
CT Corp. System)
208 So. Lasalle Suite 814)
Chicago, Il 60604)
)
Defendant.)

COMPLAINT

(Federal Employers' Liability Act)

COMES NOW Plaintiff, James Todd Buss, by and through his attorneys, Holland, Groves, Schneller & Stolze, L.L.C., and for his cause of action against the Defendant, Burlington Northern Santa Fe Railway Company (BNSF), states:

1. That the Defendant, BNSF Railway Company is now, and was at all times hereinafter mentioned, a railway corporation duly organized and existing according to law to engage in, and was engaged in, business as a common carrier in interstate commerce in the states of Missouri, Illinois and other states of the Union. That the BNSF Railway Company operates its railway throughout the territory comprising the United States District Court for the Northern District of Illinois.

2. That at all times hereinafter mentioned, Plaintiff, James Todd Buss, was employed by Defendant, BNSF Railway Company, as a locomotive engineer in furtherance

of its interstate commerce.

3. That at all times hereinafter mentioned, the Plaintiff and the Defendant BNSF Railway Company, were employed and engaged in interstate commerce and by reason thereof their mutual and respective rights and liabilities were governed by a certain Act of Congress, known as the Federal Employers' Liability Act, 45 U.S.C. Section 51-60. That this action is properly venued in this Court under the FELA, Federal Rules of Civil Procedure and local rules and that this Court has jurisdiction pursuant to 28 U.S.C. §1331, Federal Question Jurisdiction.

4. That on or about September 12, 2008, while employed as a Engineer for the BNSF Railway Company, the train Plaintiff was riding violently collided with another train, after a brakeman threw an incorrect switch and Plaintiff was given an incorrect car count at or near Mendota, Illinois, and Plaintiff, James Todd Buss, sustained serious injuries as a result thereof.

5. Plaintiff, James Todd Buss, states that his injuries and damages were due in whole or in part as a result of the negligent acts or omissions of the Defendant in one or more of the following particulars:

- a. Failed to provide Plaintiff with a reasonably safe place to work; or
- b. Failed to provide Plaintiff with reasonably safe equipment; or
- c. Failed to properly construct and/or design its tracks; or
- d. Failed to warn of the unsafe condition on its track; or

- e. Failed to provide a crash worthy locomotive; or
- f. Failed to warn Plaintiff of dangers known to Defendant or that with reasonable inspection, should have been known to defendant; or
- g. Failed to provide reasonably safe conditions for work; or
- h. Failed to heed the warnings of its employees regarding the track conditions; or
- i. Failed to properly train Plaintiff's co-workers in a manner that would provide a safe work environment; or
- j. Failed to provide reasonably safe methods of work; or
- k. Failed to follow its own rules and standards for the construction, design and inspection of its tracks; or
- l. Failed to follow its own rules and standards for the backing of trains.

6. As a result, in whole or in part, of the aforementioned conduct of the

Defendant, BNSF Railway Company, Plaintiff, James Todd Buss, was caused to suffer the following serious, painful, and permanent injuries, to-wit: Plaintiff was knocked unconscious and suffered injuries to his head, neck, shoulders, back and spine and the bones, joints, discs, nerves, blood vessels, ligaments, and adjacent structures, as well as his internal organs; Plaintiff was caused to undergo x-rays and medical treatment and painful tests, and may in the future be caused to undergo surgery. Plaintiff has suffered and does continue to suffer from post-concussion syndrome, headaches, and cognitive defects. Plaintiff has lost the wages of his employment with Defendant and may in the future lose further such wages and fringe benefits; Plaintiff has expended or obligated himself for necessary and reasonable

medical expenses and hospital care and will in the future be caused to expend further such sums. Plaintiff has suffered pain and suffering and will in the future have pain and suffering as a result of Defendant's negligence. Plaintiff's ability to work, labor, and enjoy the normal pursuits of life has been impaired and lessened all to Plaintiff's damage.

WHEREFORE, Plaintiff, James Todd Buss, prays for Judgment against the Defendant, BNSF Railway Company, for a sum fair and reasonable under the circumstances in excess of Five Million Dollars (\$5,000,000.00), together with his costs herein expended.

Holland, Groves, Schneller & Stolze, L.L.C.

/s/ Eric D. Holland
Eric D. Holland #06207110
Steven J. Stolze #6203254
Gerard B. Schneller #06205863
Steven L. Groves #6211737
300 N. Tucker, Suite 801
St. Louis, MO 63101
(314) 241-8111
(314) 241-5554 Fax
Email: stevenstolze@sbcglobal.net
Email: gschneller@allfela.com
Email: eholland@allfela.com

Attorneys for Plaintiff